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Attorneys for Joseph Barbara

UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA – SANTA ANA DIVISION

| | |
|-----------------|-----------------------------------|
| In re: |) Case No. 8:13-bk-10664-CB |
| |) |
| JOSEPH BARBARA, |) Chapter 7 |
| |) |
| Debtor. |) STIPULATED SETTLEMENT AGREEMENT |
| |) REGARDING DEBTOR'S MOTION TO |
| |) AVOID LIEN OF JOSEPH GOVEIA |
| |) |
| |) <u>Continued Hearing Date:</u> |
| |) |
| |) Date: July 30, 2013 |
| |) Time: 1:30 p.m. |
| |) Place: Courtroom 5D |
| |) |

TO THE HONORABLE CATHERINE BAUER, UNITED STATES BANKRUPTCY JUDGE:

Debtor Joseph Barbara, by and through his attorneys of record Harlene Miller of Pagter and Miller, and Creditor Joseph Goveia, by and through his attorneys of record Francis T. Donohue III of Voss, Cook & Thel LLP, hereby enter into this stipulated settlement agreement regarding the Debtor's Motion to Avoid Lien of Joseph Goveia, based on the following facts:

1. On January 24, 2013 ("Petition Date"), Joseph Barbara ("Barbara" or "Debtor") filed a voluntary petition under Chapter 7 of the Bankruptcy Code ("Petition").

2. On the Petition Date, Debtor disclosed his interest in a residence located at 132 Dolphin Avenue, Seal Beach, California ("Subject Property") which was encumbered by a Bank of America mortgage in the amount of \$400,000.00, and an abstract of judgment recorded by Joseph Goveia ("Goveia") in the amount of \$229,402.17 ("Judgment Lien"). (See Exhibit 1, Abstract of Judgment recorded 5/3/12, Document #2012000256073.) Debtor claimed a homestead exemption of \$175,000 pursuant to C.C.P. §704.730. No objection was timely filed as to this claim of exemption.

3. On April 29, 2013, Debtor filed a Motion to Avoid Lien under 11 U.S.C. §522(f) ("Motion"), seeking to reduce Goveia's secured lien to \$5,000. The Motion was based upon an appraisal of the Subject Property in the amount of \$580,000.00; and, Goveia's updated Judgment Lien amount including accrued interest to the Petition Date for a total of \$251,550.37. The Motion was filed without hearing, subject to opposition and request for a hearing.

4. On May 13, 2013, Goveia filed his Notice of Opposition and Request for Hearing on Motion to Avoid Lien ("Opposition"), supported by an appraisal of the Subject Property which indicated a fair market value of \$685,000. Based upon Goveia's appraisal, if upheld, the lien avoidance would result in a reduced judgment lien to \$110,000.

5. As a result of the Opposition, a hearing was scheduled and noticed for June 25, 2013 at 2:30 p.m., which was continued to July 30, 2013 as a result of a settlement reached by the parties to resolve the Motion and conflicting positions.

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WHEREFORE, Joseph Barbara and Joseph Goveia (the "Parties") stipulate and agree as follows:

A. Goveia's Judgment Lien on the Subject Property will be \$75,000 ("Settlement Lien").

B. This Stipulated Settlement will take effect and is conditioned upon an Order entered by the Bankruptcy Court approving this settlement.

C. A certified copy of the entered Order approving this Stipulated Settlement will be recorded with the County Recorder's Office by Barbara.

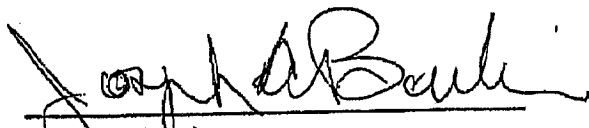
D. The Parties acknowledge that they have been represented by counsel in negotiating this settlement and that the settlement terms have been read, understood and agreed to by the Parties.

E. The Parties further acknowledge that this Stipulated Settlement completely resolves all issues between the Parties related to the value of Goveia's Judgment Lien on the Subject Property as set forth in paragraph A above.


F. This Stipulation may be executed in one or more counterparts and facsimile or electronic signatures may be used in filing this document with the Court, and will be considered valid signatures as between the Parties, as if they are original signatures.

G. This Stipulation represents all terms agreed to by the Parties as to the matter in dispute.

Dated: 7/25/13


Joseph Barbara

Dated: 7-24-13


Joseph Goveia

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1 APPROVED AS TO FORM AND CONTENT:

2 PAGTER AND MILLER

3
4 By: 

Harlene Miller

Attorneys for Joseph Barbara

6
7 VOSS, COOK & THELL LLP

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9 By: 


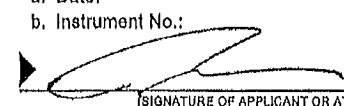
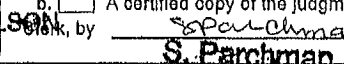
Francis T. Donohue, III


Attorneys for Joseph Goveia

EXHIBIT 1

Exhibit 1

EJ-001

| | | | |
|--|--|---|--|
| <small>ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, address, State Bar number, and telephone number):</small> Recording requested by and return to: Francis T. Donohue III, Esq. 106801 Voss, Cook & Thel, LLP 895 Dove Street, Suite 450 Newport Beach, CA 92660 949/435-0225 <input checked="" type="checkbox"/> ATTORNEY FOR <input checked="" type="checkbox"/> JUDGMENT CREDITOR <input type="checkbox"/> ASSIGNEE OF RECORD | | Recorded In Official Records, Orange County Tom Daly, Clerk-Recorder  19.00 * 8 0 0 0 4 7 8 1 8 8 9 \$ * 2012000256073 2:27 pm 05/03/12 305 405 A03 2 0.00 0.00 0.00 0.00 3.00 10.00 0.00 0.00 | |
| <small>SUPERIOR COURT OF CALIFORNIA, COUNTY OF ORANGE</small> STREET ADDRESS: 700 CIVIC CENTER DRIVE W MAILING ADDRESS: CITY AND ZIP CODE: SANTA ANA, CA 92701 BRANCH NAME: CENTRAL JUSTICE CENTER | | <small>FOR RECORDER'S USE ONLY</small> | |
| PLAINTIFF: Joseph Barbara DEFENDANT: Joseph D. Goveia | | CASE NUMBER: 30-2010-00364434 | |
| ABSTRACT OF JUDGMENT—CIVIL AND SMALL CLAIMS <input type="checkbox"/> Amended | | <small>FOR COURT USE ONLY</small> | |
| 1. The <input checked="" type="checkbox"/> judgment creditor <input type="checkbox"/> assignee of record applies for an abstract of judgment and represents the following: a. Judgment debtor's Name and last known address Joseph Barbara 132 Dolphin Avenue Seal Beach, CA 90740 b. Driver's license no. (last 4 digits) and state: Cal, C5691958 <input type="checkbox"/> Unknown c. Social security no. (last 4 digits): 0658 <input type="checkbox"/> Unknown d. Summons or notice of entry of sister-state judgment was personally served or mailed to (name and address): | | | |
| 2. <input type="checkbox"/> Information on additional judgment debtors is shown on page 2. 3. Judgment creditor (name and address): Joseph D. Goveia 24855 Del Prado, Dana Point, CA Date: April 12 2012 Francis T. Donohue III, Esq. <small>(TYPE OR PRINT NAME)</small> | | | |
| 4. <input type="checkbox"/> Information on additional judgment creditors is shown on page 2. 5. <input type="checkbox"/> Original abstract recorded in this county: a. Date: b. Instrument No.:  <small>(SIGNATURE OF APPLICANT OR ATTORNEY)</small> | | | |
| 6. Total amount of judgment as entered or last renewed: \$ 229,402.17 7. All judgment creditors and debtors are listed on this abstract. 8. a. Judgment entered on (date): 2-6-12 b. Renewal entered on (date): 9. <input type="checkbox"/> This judgment is an installment judgment. | | | |
| 10. <input type="checkbox"/> An <input type="checkbox"/> execution lien <input type="checkbox"/> attachment lien is endorsed on the judgment as follows: a. Amount: \$ b. In favor of (name and address): | | | |
| 11. A stay of enforcement has a. <input checked="" type="checkbox"/> not been ordered by the court. b. <input type="checkbox"/> been ordered by the court effective until (date): | | | |
| 12. a. <input checked="" type="checkbox"/> I certify that this is a true and correct abstract of the judgment entered in this action. b. <input type="checkbox"/> A certified copy of the judgment is attached. Clerk, by  S. Parchman, Deputy | | | |



Form Adopted for Mandatory Use
Judicial Council of California
EJ-001 (Rev. January 1, 2008)

This abstract issued on (date):
APR 25 2012
ALAN CARLSON

ABSTRACT OF JUDGMENT—CIVIL AND SMALL CLAIMS

Page 1 of 2
Code of Civil Procedure, §§ 480.480,
674, 700.190

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|-----------------------------|------------------|
| PLAINTIFF: Joseph Barbad | CASE NUMBER: |
| DEFENDANT: Joseph D. Goveia | 30-2010-00364434 |

NAMES AND ADDRESSES OF ADDITIONAL JUDGMENT CREDITORS:

13. Judgment creditor (name and address): 14. Judgment creditor (name and address):

15. ☐ Continued on Attachment 15.

INFORMATION ON ADDITIONAL JUDGMENT DEBTORS:

| | |
|---|---|
| 16. Name and last known address | 17. Name and last known address |
| <div style="border: 1px solid black; height: 40px; width: 100%;"></div> | <div style="border: 1px solid black; height: 40px; width: 100%;"></div> |
| Driver's license no. [last 4 digits] and state: | Driver's license no. [last 4 digits] and state: |
| <input type="checkbox"/> Unknown | <input type="checkbox"/> Unknown |
| Social security no. [last 4 digits]: | Social security no. [last 4 digits]: |
| <input type="checkbox"/> Unknown | <input type="checkbox"/> Unknown |
| Summons was personally served at or mailed to (address): | Summons was personally served at or mailed to (address): |

| | |
|---|---|
| 18. Name and last known address | 19. Name and last known address |
| <div style="border: 1px solid black; height: 40px; width: 100%;"></div> | <div style="border: 1px solid black; height: 40px; width: 100%;"></div> |
| Driver's license no. [last 4 digits] and state: | Driver's license no. [last 4 digits] and state: |
| <input type="checkbox"/> Unknown | <input type="checkbox"/> Unknown |
| Social security no. [last 4 digits]: | Social security no. [last 4 digits]: |
| <input type="checkbox"/> Unknown | <input type="checkbox"/> Unknown |
| Summons was personally served at or mailed to (address): | Summons was personally served at or mailed to (address): |

20. ☐ Continued on Attachment 20.

PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:
525 N. Cabrillo Park Drive, Suite 104, Santa Ana, CA 92701

A true and correct copy of the foregoing document entitled (*specify*): **STIPULATED SETTLEMENT AGREEMENT REGARDING DEBTOR'S MOTION TO AVOID LIEN OF JOSEPH GOVEIA** will be served or was served (a) on the judge in chambers in the form and manner required by LBR 5005-2(d); and (b) in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On (*date*) **07/26/2013**, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

- Francis T Donohue ftd@vctlaw.com, dyolken@vctlaw.com
- Karen S Naylor (TR) acanzone@burd-naylor.com, knaylor@ecf.epiqsystems.com
- United States Trustee (SA) ustpreion16.sa.ecf@usdoj.gov

☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL:

On (*date*) _____, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (*state method for each person or entity served*): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on (*date*) **07/26/2013**, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Hon. Catherine E. Bauer – Judge's Copy – 411 W. Fourth Street, Suite 5165, Santa Ana, CA 92701
(Via Personal Delivery by O.C. Corporate Courier)

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

07/26/2013

IMELDA BYNOG

Is! Imelda Bynog

Date

Printed Name

Signature